

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THEODORE F. NUBY, SR.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 05-11125-RGS
)	
JUDGE DIANE MORIARTY and MARK)	
CONNOR,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

By Order dated July 29, 2005, plaintiff's fee-waiver application was denied without prejudice to refileing a fully completed application. Plaintiff was further directed to demonstrate good cause, in writing, within 35 days of the date of the order, why this action should not be dismissed and why he should not be enjoined from filing further actions without leave of court. The July 29, 2005 Memorandum and Order stated that plaintiff's complaint failed to state a claim because attorney Connor is not a state actor and Judge Moriarty has judicial immunity. On August 15, 2005, Nuby replied by filing a copy of this Court's order with plaintiff's "answers" written in the margins of the order. See Docket No. 5.

To the extent plaintiff again seeks to proceed without prepayment of fees, see Docket No. 4, the Court will allow plaintiff's request for waiver of the filing fee because his sole source of income is from Social Security benefits.

To the extent plaintiff seeks to demonstrate good cause why

his complaint should not be dismissed, plaintiff's reply simply restates the facts as alleged in his original complaint. He adds some additional facts, however, these facts do not support a civil rights claim against either defendant. After carefully reviewing plaintiff's response, I find that plaintiff has failed to demonstrate any reason why this action should not be dismissed.

Finally, plaintiff argues that he should not be enjoined from filing and asserts that his action is not groundless. Again, plaintiff asserts what he believes to be the merits of his case. Although the allegations in both plaintiff's complaint and his subsequent reply fail to support a civil rights claim, the Court will not at this time enter an order enjoining plaintiff from further filings. However, he is warned of the Court's power to do so.

ORDER

ACCORDINGLY, the request to waive the filing fee is allowed and, in accordance with this Court's order dated July 29, 2005, and the plaintiff not having shown good cause why this case should not be dismissed pursuant to 28 U.S.C. § 1915(e)(2), it is ORDERED that the within action be and it is hereby DISMISSED for the reasons stated above.

SO ORDERED.

September 20, 2006
DATE

/s/ Richard G. Stearns
RICHARD G. STEARNS
UNITED STATES DISTRICT JUDGE